

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 20 - 65 are pending in the application. Currently, claims 20 - 49 stand rejected and claims 50 - 65 stand withdrawn from consideration as being directed to a non-elected invention.

By the present amendment, claims 20, 28 - 37, 39 - 44, 46, and 47 have been amended and claim 38 has been cancelled without prejudice. The amendments to claims 28 - 37, 39 - 44, 46, and 47 are to correct a grammatical error and not for reasons relating to patentability.

In the office action mailed September 24, 2009, claims 20 - 31, 38 - 40, 42 - 44, and 47 - 49 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,077,613 to Gaffigan; claims 32 - 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gaffigan; claim 41 was rejected under 35 U.S.C. 103(a) as being unpatentable over Gaffigan in view of U.S. Patent No. 5,569,505 to Nichols; and claims 45 and 46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gaffigan in view of U.S. Patent Publication No. 2004/0197468 to Geel et al. or U.S. Patent No. 4,163,813 to Sheets et al.

As amended herein, claim 20 is directed to a wooden material panel, including a surface coating applied only on a front side and at least on parts of the panel, said surface coating being a multiple layer surface coating comprising at least one layer of plastic~~s~~ having a Shore hardness A up to 90, wherein the at least one layer of plastic borders on a layer of varnish or a layer of paint or pigments.

The Gaffigan patent relied upon by the Examine discloses a sound insulating membrane. The membrane comprises at least one

backing layer in contact with a layer of non-foam polymeric material. The backing layer(s) may be formed from any woven or nonwoven fabric of resinous fibers. The polymeric material has a Shore A hardness of from about 65 to 80 points, 5 seconds. The membrane is suitable for use under a surface coating like tiles, panels or similar surfaces and is not usable on the top of surface coatings or between layers of multiple surface coatings such as paint and varnish. Furthermore, the insulation membrane only insulates against footfall sound, not ambient sound.

As presented in amended claim 20, the layer according to the invention is only on a front side of the panel, is part of a multiple layer surface coating and the layer of plastic borders onto a layer of varnish or a layer of paint or pigments. It is submitted that Gaffigan does not disclose or suggest such a construction. Thus, Gaffigan can not anticipate the subject matter of amended claim 20.

For these reasons, claim 20 is allowable over the cited and applied reference.

Claims 21 - 37 and 39 - 49 are allowable for the same reasons as claim 20 as well as on their own accord. The Nichols, Geel et al., and Sheets et al. documents do not cure the deficiencies of Gaffigan.

The objection to the claims has been duly noted. Appropriate correction has been made.

The instant application is believed to be in condition for allowance. Such allowance is respectfully submitted.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicant's attorney at the telephone number listed below.

No fee is believed to be due as a result of this response.

If the Director determines that a fee is due in connection with this response, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

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Date: December 22, 2009